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Attorneys for Defendant Walmart Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

JAMES HODGES,

Plaintiff,

vs.

WALMART INC.,

Defendant.

NOTICE OF REMOVAL

Case No.: 2:21-cv-00214-CMR

Magistrate Judge Cecilia M. Romero

NOTICE IS HEREBY GIVEN that Defendant, Walmart Inc., by and through its Counsel of record, hereby removes this action from the Third Judicial District Court, Salt Lake County, State of Utah, to the United States District Court, District of Utah, Central Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and respectfully states as follows:

1. Plaintiff, James Hodges, filed this civil action, case number 210901521, against Defendant in the Third Judicial District Court, Salt Lake County, State of Utah, on or about March 18, 2021. (A copy of the Complaint is attached as Exhibit “A”).
2. Defendant was served on or about March 19, 2021. (A copy of the Summons is attached as Exhibit “B”).

3. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because Defendant has (1) satisfied the procedural requirements for removal, and (2) this Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332.
4. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Counsel for Plaintiff, and a copy is also being filed with the Clerk of the Court for the Third Judicial District Court.
5. With respect to diversity, the citizenship of the Parties is diverse in this action.
6. According to the Complaint, Plaintiff, James Hodges, is a resident of the State of Utah. (Complaint ¶ 1, Exhibit “A”).
7. Upon information and belief, Plaintiff is not, and never has been, domiciled in Delaware or Arkansas.
8. Defendant, Walmart Inc., is and was at the time of the commencement of this action a Delaware Corporation, with its principal place of business in Bentonville, Arkansas.
9. Based on the foregoing, there is complete diversity between the Parties.
10. With respect to the amount in controversy, Plaintiff designated this action as “Tier Three” for purposes of Discovery under Utah Rule of Civil Procedure 26(c), demonstrating that Plaintiff is alleging damages in excess of \$300,000. (Complaint ¶ 5, Exhibit “A”).
11. Based on the foregoing, Plaintiff’s alleged injuries and damages are sufficient to support a claim in excess of \$75,000, and thereby satisfy the requisite amount in controversy for removal of this action. *McPhail v. Deere & Comp.*, 529 F.3d 947, 956 (10th Cir. 2008)(“A

complaint that presents a combination of facts and theories of recovery that may support a claim in excess of \$75,000 can support removal.”).

12. Due to the complete diversity of the Parties to this action, and the amount in controversy in excess of \$75,000, this case meets the requirements for removal to Federal Court pursuant to 28 U.S.C. § 1332.

13. Venue is proper in the United States District Court, District of Utah, Central Division, because the lawsuit was filed in Salt Lake County, State of Utah.

14. Defendant’s request for removal is properly made within 30-days of receipt of the Summons and Complaint by Defendant.

WHEREFORE, Defendant respectfully removes this action from the Third Judicial District Court, Salt Lake County, State of Utah, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and respectfully requests that this Court assume complete jurisdiction over this action and exclude any further proceedings in State Court

DATED this 8th day of April, 2021

MORGAN, MINNOCK, RICE & MINER, L.C.

/s/ Mitchel T. Rice
Mitchel T. Rice
Andrea M. Keysar
Marianne Schumann
Attorneys for Defendant Walmart Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of April, 2021, I caused a true and correct copy of the foregoing **NOTICE OF REMOVAL** to be served via electronic filing to the following:

Parker A. Allred pallred@advocates.com
Colby B. Vogt cvogt@advocates.com
Alan D. Tucker atucker@advocates.com
DRIGGS, BILLS & DAY, P.C.
737 East Winchester Street
Salt Lake City, UT 84107

And via JudicialLink to the following:

THIRD JUDICIAL DISTRICT COURT – Salt Lake County
Clerk of the Court
450 South State Street
Salt Lake City, Utah 84114-1860

/s/ Krystal Day

Krystal Day